

REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

35 U.S.C. § 103 Rejections

Claims 46 – 66 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,795,339 to Erskine (hereinafter “Erskine”) in view of Kerby, et al. (hereinafter “Kerby”). Applicant respectfully traverses this rejection in view of the remarks that follow.

The Examiner states that Kerby “teaches a catheter cap (36, the cap)...accessible for occluding said catheter without previous detachment of said catheter cap from said needle assembly”. Applicant respectfully submits that Kerby actually demonstrates quite the opposite, clearly showing that cap 36 is attached to the needle hub in a manner that requires cap 36 to be disconnected from the needle hub prior to use, something that has been done this way for decades. Furthermore, even if Kerby’s cap 36 were attached to Erskine’s safety device, the same would be true, that the cap could not be used without it first being detached from needle assembly. The claimed invention distinguishes over the prior art by introducing novel structure where a cap is placed such that a tapered male luer member is accessible for connecting to a catheter without need for the cap to be first disconnected from the needle assembly.

Notwithstanding the arguments above, claim 46 is amended herewith to further distinguish over the prior art by specifically characterizing the position of the tapered end of the tapered male luer member relative to the position of the cap as follows:

“when said needle assembly is in said protected position said catheter cap is positioned at either of said ends of said needle assembly, and said tapered end of said tapered male luer member is directed proximally when said catheter cap is positioned at said proximal end of said needle assembly and distally when said catheter cap is positioned at said distal end of said needle assembly.”

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This limitation serves to fix the catheter cap onto the device in such way that the catheter cap is accessible for occluding the catheter's proximal opening without first requiring the detachment of the catheter cap from the needle assembly.

Claim 46 is further amended herewith to include the limitations of claims 48, 54, 59, 62, and 63. Due to the extensive nature of the additions and deletions to claim 46 that render claim 46 difficult to read, claim 46 is cancelled herewith and presented as new claim 67 for the sake of clarity. Similarly, claims depending from claim 46 are either cancelled completely, or cancelled and presented as depending from new claim 67 as follows:

- Claim 47 is cancelled
- Claims 49, 56, 57 are cancelled
- Claims 50, 51 are included in new claim 70
- Claims 52, 53 are cancelled
- Claim 55 is included in new claim 68
- Claim 58 is included in new claim 69
- Claims 60, 61 are included in new claim 71
- Claim 64 is cancelled
- Claim 65 is included in new claim 74
- Claim 66 is cancelled.

In view of the arguments presented above, Applicant respectfully requests that the rejection of claims 46 – 66 under 35 U.S.C. §103(a) be withdrawn.

Petition For Two-Month Extension Of Time Under 37 CFR 1.136(a)

The period for filing a response to the instant Office Action was set to expire on November 25, 2009. Applicant hereby requests that the period for filing a response be extended by two (2) months, so as to expire on January 25, 2010. Accordingly, this response is being timely filed.

The fee for a Petition for a Two-Month Extension of Time is Two Hundred and Forty-Five Dollars (\$245.00) dollars for a small entity, for which credit card payment is provided herewith via EFS-Web. However, The United States Patent and Trademark Office is hereby authorized to

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charge Deposit Account No. 501380 any fee which is necessary in connection with the filing of this amendment and petition.

Favorable action on this amendment and petition is courteously solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Daniel J. Swirsky', written in a cursive style.

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